UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,011	02/12/2001	David Leigh Donoho	UNIV0001D2-C	2182

22862   7590   11/15/2007
GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

EXAMINER
CHOUDHURY, AZIZUL Q

ART UNIT	PAPER NUMBER
2145	

MAIL DATE	DELIVERY MODE
11/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 September 2007*.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,5,7,9-12,21-28 and 35-37* is/are pending in the application.
     4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1,5,7,9-12, 21-28 and 35-37* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on *22 December 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
     a)☐ All   b)☐ Some *   c)☐ None of:
       1.☐ Certified copies of the priority documents have been received.
       2.☐ Certified copies of the priority documents have been received in Application No. _____.
       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)
1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
     Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This action is responsive to the amendment of the applicant, received on September 5,

2007.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 36 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply

with the written description requirement. The claim(s) contains subject matter which

was not described in the specification in such a way as to reasonably convey to one

skilled in the relevant art that the inventor(s), at the time the application was filed, had

possession of the claimed invention. The claim feature MMX is not defined within the

specifications and is not known to those skilled in the art as a physical property of a

computer.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. The claim states: "physical device comprises any of said

computer's: storage device; operating system version; operating system property;

RAM; ROM; and registry..." Operating system version, operating system property and the registry are not physical devices within a computer. Appropriate corrections are required.

Claim 36 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear as to what a computer's MMX is. Appropriate corrections required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 5, 7, 9-12, 21-28 and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahmad (US Patent No: 6,029,258) in view of Moerbeek (US Patent No: 6,418,445).

1.   Regarding claims 1 and 10, Ahmad discloses through Moerbeek a method for inspecting contents of the computer's storage devices comprising the steps of: at least one inspector which includes an inspector library having special purpose executable code, executing on said consumer's computer [Ahmad, col. 7, line 59 – col. 8, line 26

and col. 10, lines 30-43]; said inspector automatically and without receiving consumer

input querying at least one physical device communicatively coupled to said consumer's

computer, in order to glean property information concerning said consumer's computer

[Ahmad, col. 13, lines 9-16], wherein said physical device comprises any of said

computers: storage device; operating system version; operating system property; RAM;

ROM; and registry [Moerbeek, col. 2, lines 37-39 and col. 3, lines 23-24]; wherein the

inspector performs any of mathematic-logical calculations, executes computational

algorithms, returns the results of system calls, accesses the contents of storage

devices, and queries devices [Ahmad, col. 8, lines 27-49 and col. 9, lines 44-63],

wherein said inspector automatically evaluates a database of advise for relevance to

said consumer's computer by use of an automated advise reader, wherein said advise

reader operates in the absence of consumer involvement [Ahmad teaches how

problems are troubleshot with the aid of a database; col. 2, lines 4-8. In addition, the

troubleshooting can be performed automatically; col. 13, lines 9-12. Plus Ahmad

teaches a system that monitors remote devices; column 5, lines 20-43 and column 13,

lines 40-55].

        While Ahmad's disclosure teaches network-monitoring systems automatically

detecting network device properties, it does not explicitly teach the detecting of physical

devices such as a storage device. In the same field of endeavor, Moerbeek teaches a

network monitoring design wherein storage device information is attained as claimed

[see col. 2, lines 37-39 and col. 3, lines 23-24, Moerbeek]. Therefore, it would have

been obvious to one skilled in the art, during the time of the invention to combine the

teachings of Ahmad with those of Moerbeek, to provide a system for automatically and

adaptively capturing, recording, and retrieving large amounts of complex IT system

state data [see col. 2, lines 31-36, Moerbeek].

2.   Regarding claims 5 and 9, Ahmad further discloses through Moerbeek, sending

certain relevance clauses to a remote location; evaluating the clauses; and returning the

clauses after a user is made aware of what is being transferred; wherein properties of

the remote location are learned [Ahmad, col. 6, lines 36-67 and col. 9, lines 44-63].

3.   Regarding claim 7, Ahmad further discloses through Moerbeek, a computer

implemented inspector for inspecting any of the properties of a computer, said

computer's configuration, contents of said computer's storage devices, said computer's

peripherals, said computer's environment, or remote affiliated computers, said inspector

comprising: an inspector library containing executable code, which is invoked as part of

a continual relevance evaluation process, executing on said consumer's computer

[Ahmad, col. 7, line 59 – col. 8, line 26 and col. 10, lines 30-43]; wherein said inspector

is configured to automatically and without receiving consumer's input query at least one

physical device communicatively coupled to said consumer's computer, in order to

glean property information concerning said consumer's computer, wherein said

inspector does not inspect a printer of said computer's peripherals [Ahmad teaches how

troubleshooting can be performed automatically; col. 13, lines 9-12. Plus Ahmad

teaches a system that monitors remote devices; column 5, lines 20-43 and column 13,

lines 40-55]; one or more automatic unattended inspector methods for performing any of

mathematic-logical calculations, executing computational algorithms, returning the

results of system calls, accessing the contents of storage devices, and querying devices

or remote computers [Ahmad, col. 2, lines 4-8 and col. 17, lines 9-12], wherein a one

way membrane allows said inspector methods to view a relevant advisory without

divulging user's identity [Ahmad, col. 7, line 69 – col. 8, line 26 and col. 10, lines 30-43;

user identity is not obtained from the user's machine in Ahmad's design].

While Ahmad's disclosure teaches network-monitoring systems automatically

detecting network device properties, it does not explicitly teach the detecting of physical

devices other than printers. In the same field of endeavor, Moerbeek teaches a network

monitoring design wherein storage device information is attained [see col. 2, lines 37-39

and col. 3, lines 23-24, Moerbeek]. Therefore, it would have been obvious to one skilled

in the art, during the time of the invention to combine the teachings of Ahmad with those

of Moerbeek, to provide a system for automatically and adaptively capturing, recording,

and retrieving large amounts of complex IT system state data [see col. 2, lines 31-36,

Moerbeek].

4.   With regards to claims 12 and 35, Ahmad further discloses through Moerbeek, a

computer implemented system including computational devices connected by a

communications network, said system comprising a communications apparatus for

linking an information provider to information consumer, said communications apparatus

comprising specific units of advice to be shared, digital documents conveying said

advice, an advice provider for broadcasting said advice in the form of advisories, an

advice consumer for receiving said advisories, wherein advisories are broadcast over

said communications network from said advice provider to said advice consumer, a

communications protocol for narrowly focused targeting of said advisories to said advice

consumer by automatically matching advisories with an advice consumer for whom said

advisories are relevant, said system comprising: an inspector dispatcher associated

with an advice client computer for continually performing relevance determination

without user intervention, wherein said relevance determination is driven by a database

of relevance clauses which can be continually evaluated [Ahmad, col. 7, line 59 – col. 8,

line 26 and col. 10, lines 30-43]; at least one inspector executing on said consumer's

computer, comprising: an inspector library and associated methods for evaluating

subexpressions with said at least one inspector; wherein said inspector library contains

executable code which is invoked by said inspector dispatcher as part of said relevance

determination process [Ahmad, col. 1, line 59 – col. 2, line 19]; wherein said inspector is

configured to automatically and without receiving consumer input query at least one

physical device communicatively coupled to said consumer's computer, in order to

glean property information concerning said consumer's computer [Ahmad, col. 2, lines

4-8 and col. 17, lines 9-12]; wherein said inspector comprises use of any of: a database

containing information about the user [element 76, Figure 5, Moerbeek]; a remote

inspector, wherein said remote inspector comprises use of at least one of a remote

physical measurement [equivalent to processor cycles, col. 3, lines 23-24, Moerbeek], a

remote database query, and a remote relevance invocation [Ahmad, col. 7, line 59 – col.

8, line 26, col. 10, lines 30-43 and col. 16, line 52 – col. 17, line 9]; a log file [data

storage means of figure 5 are equivalent to the claimed log file; see element 200, Figure

5, Ahmad]; and operates using user profile data [element 76, Figure 5, Moerbeek], and

wherein said inspector performs any of mathematico-logical calculations, executes

computational algorithms, returns the results of system calls, accesses the contents of

storage devices, and queues devices or remote computers [Ahmad, col. 7, line 69 – col.

8, line 26 and col. 10, lines 30-43].

While Ahmad's disclosure teaches network-monitoring systems automatically

detecting network device properties, it does not explicitly teach the detecting of physical

devices other than printers. In the same field of endeavor, Moerbeek teaches a network

monitoring design wherein storage device information is attained [see col. 2, lines 37-39

and col. 3, lines 23-24, Moerbeek]. Therefore, it would have been obvious to one skilled

in the art, during the time of the invention to combine the teachings of Ahmad with those

of Moerbeek, to provide a system for automatically and adaptively capturing, recording,

and retrieving large amounts of complex IT system state data [see col. 2, lines 31-36,

Moerbeek].

5.   Regarding claims 20-22, Ahmad further discloses through Moerbeek, the

inspector resides at the consumer's computer, wherein invoking the inspector with an

advice reader running on the consumer's computer, accessing the special purpose

executable code using the advice reader [Ahmad, col. 7, line 59 – col. 8, line 26 and col.

10, lines 30-43].

6.   Regarding claim 23, Ahmad further discloses through Moerbeek, installing at

least a portion of contents of the inspector library at run-time [Ahmad, col. 8, lines 3-49].

7.   Regarding claims 24-27, Ahmad further discloses through Moerbeek, delivering

advisories from an advice provider to the consumer's based upon results from the at

least one inspector, wherein an advice provider delivering information from a plurality of

advice providers, wherein information about a consumer does not transfer from the

consumer's computer unless the consumer initiates the transfer and dynamically

updating a collection of the inspector libraries [Ahmad, col. 7, line 59 – col. 8, line 26,

col. 10, lines 30-43 and col. 16, line 52 – col. 17, line 9].

8.   Regarding claim 28, Ahmad further discloses through Moerbeek, the step of

inspecting using the at least one inspector any of: version, operating system, registry,

preferences, and a database [Ahmad, col. 9, lines 44-63].

9.   Regarding claim 36, Ahmad discloses through Moerbeek, the method wherein

said physical property comprises any of said computer's: speed; manufacturer; model;

MMX; and cache [speed is equivalent to processor cycles; see col. 3, lines 23-24,

Moerbeek].

10.   Regarding claim 37, Ahmad discloses through Moerbeek, the method wherein

said inspector operates on at least one element that is not a printer [Moerbeek's design

inspects storage devices; see col. 2, lines 37-39 and col. 3, lines 23-24, Moerbeek].

11.   Regarding claim 11, the claim has similar limitations as claims 1, 5 and 21-28.

Therefore, the similar limitations are disclosed under Ahmad for the same reasons set

forth in the rejection of claims 1, 5 and 21-28.

12.   The obviousness motivation applied to claims 1, 7, 12 and 35 are applicable to

claims 5, 9-11, 21-28 and 36-37.

Response to Arguments

The amendment received on September 5, 2007 has been carefully considered

but is not deemed fully persuasive. The following are the examiner's response to the

applicant's arguments.

The first point of contention involves the claimed feature of gleaning physical

devices. The applicant contends that the Ahmad prior art fails to teach this feature.

While Ahmad did teach gleaning printer properties (equivalent to physical properties),

the claim amendments now distinguish physical device as a storage device. For this

new feature, a new search was performed and the Moerbeek prior art was yielded.

Moerbeek teaches a network monitoring system wherein storage device information is

attained as claimed [see col. 2, lines 37-39 and col. 3, lines 23-24, Moerbeek].

The second point of contention involves the newly claimed features of claim 12. The applicant contends that the Ahmad prior art does not teach such features. The examiner disagrees. Ahmad, in combination with Moerbeek teaches all the features of claim 12 as is indicated by the citations within the office action rejection of claim 12.

As for the additional new claims, they have been examined and rejected using both the Ahmad and Moerbeek arts in combination.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Azizul Choudhury whose telephone number is (571) 272-3909. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the
Patent Application Information Retrieval (PAIR) system. Status information for
published applications may be obtained from either Private PAIR or Public PAIR.
Status information for unpublished applications is available through Private PAIR only.
For more information about the PAIR system, see http://pair-direct.uspto.gov. Should
you have questions on access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a
USPTO Customer Service Representative or access to the automated information
system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AC

/Jason D Cardone/
Supervisory Patent Examiner,
Art Unit 2145